

FEDERAL ELECTION  
COMMISSION

2011 MAY -9 PM 1:27

OFFICE OF GENERAL  
COUNSEL

May 6, 2011

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Our Client: Arthur Lee Talley  
MUR # 6467

Dear Mr. Jordan:

The following shall serve as my response to the FEC Complaint (MUR # 6467) filed against me. First, the "Possible Violations" letter to the FEC is a bit convoluted and confusing, and it is hard to discern exactly what the allegations are, but I have done my best below to address every allegation that requires response. If, however, I have omitted responding to anything, it is not intentional, and I am happy to provide any additional information that you would request.

**QUESTION: Was the Statement of Organization filed on Oct 20, 2010 submitted fraudulently?**

This question is the core question of the complaint that I received on April 15, 2011. This question is divided into two different questions in and of itself.

The first question is whether or not I signed the Statement of Organization form submitted to the FEC on Oct 20<sup>th</sup>. My answer is that it is my signature on the form. My signature and/or electronic signature appears on every item this committee has ever submitted to date to the FEC. Simply put, there is no forgery here. I signed the document.

The second question is whether or not I fraudulently assumed the role of treasurer by signing the forms. By registering the committee with the FEC, you do not take on the role of committee treasurer. You take on the role of being responsible to the FEC for accurate reporting of the committee financial transactions as they relate to matters involved in federal election activity. In most cases, the person who executes the duties of committee treasurer also takes on the above listed responsibilities to the FEC by registering the committee as a Federal Committee with the FEC, but one is not a requirement of the other.

At no time before Oct 20<sup>th</sup> was our district committee registered with the FEC. I was the first and only person to register our committee. So far to date, I am the only person from our committee to file reports to the FEC as we are legally required to do. Our previous treasurer, Mr. Jim Hewitt, had not registered the district committee by Oct 20<sup>th</sup>, even though we had passed the threshold of expenditures requiring us to be registered.

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Therefore, it is my position that the committee did not exist as a federal committee until the time of my filing the Statement of Organization, thus my signing on to be the responsible party for the FEC filings of our committee at that time was legitimate and allowable under the law.

Additionally, a ruling by Lee Goodman, Republican Party of Virginia General Council, had determined that Jim Hewitt was no longer the committee treasurer, stating that his term expired under the RPV Party Plan in September of 2010. Even the parties to this complaint knew this fact to be true.

Therefore even the parties, or at least some of the parties, of this complaint recognize that Mr. Hewitt wasn't even the committee treasurer at the time that I signed and filed the Statement of Organization. Therefore, at the time of the filing, there was no duly elected treasurer of the 3<sup>rd</sup> District Committee.

Finally I disagree with the interpretation of the complainants' statements that I have misapplied administrative opinion AO 1977-59 to this situation and our committee's need for a federal treasurer.

My interpretation of that administrative opinion is that if you do not have an Assistant Treasurer you must file an amended Statement of Organization declaring such. However, the point of the opinion is that the treasurer is not available. How then can the treasurer sign a form when he is not present to do so? What it means in my understanding is that the person to that would be the assistant treasurer signs the amended form as treasurer and when the treasurer becomes available you would file another amended Statement of Organization with the committee personnel assigned to their respective treasurer and assistant treasurer roles.

Now if the complainants' interpretation is correct how can a committee have a assistant treasurer designated when there is no treasurer either available or even in the role of treasurer, due to their term expiring, to sign the amended Statement of Organization?

Finally with the weight of all the above, I have done nothing wrong in taking the responsibility to work with the committee and guide it in issues of FEC compliance. I did not act in a fraudulent manner to sign the Statement of Organization on Oct 20<sup>th</sup>, 2010.

The following items support these facts:

- a. Email from Richard Crouse (RPV Political Director) directing me to call RPV right away
- b. Email from Mike Wade (Chairman 3<sup>rd</sup> District Committee) stating we had resolved the problem with our FEC Registration
- c. Email from Gina Padrone an employee of RPV who scanned and sent me a FEC statement of organization that Aaron Gulbrandsen had filled out for me to sign.
- d. Ruling from Lee Goodman (RPV General Council)

**QUESTION:** Why is the expense listed in the October Quarterly report documented as an in-kind to the Chuck Smith for Congress campaign?

It is proper procedure as listed in the 2009 Committee Treasurers Guide to document expenses paid for by a committee for a campaign as an in-kind donation. It is also stated as proper procedure to document in-kind donations with the FEC at the time they take place not at the time of payment of an invoice.

The fundraiser in question occurred on the 31<sup>st</sup> of July 2010. The invoices for this fundraiser were paid by the previous committee treasurer Jim Hewitt and listed as for the "Chuck Smith Fundraiser".

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The 2009 Committee Treasurers Guide and statute as interpreted does not take into account the quality or success of a fundraiser. It only speaks of who is the fundraiser for, how raised funds are split if there are multiple candidates, and how those funds are documented for the FEC. There are no provisions listed for either quality or success of any fundraiser.

An in-kind donation is defined as follows on page 157 of the "Campaign Guide for Political Party Committees":

*"In-Kind Contribution: A contribution of goods, services or property offered free or less than the usual and normal charge. The term also includes payments made on behalf of, but not directly to, the candidates and political committees."*

An expense was made in effort to support candidate Chuck Smith, the Third District committee paid that expense. This fundraiser was held for Chuck Smith. Chuck Smith's campaign was the only recipient of the donations from the fundraiser. Therefore it is an in-kind donation to the Smith campaign.

The standard defining the receipt of an in-kind contribution is as follows on page 62 of the "Campaign Guide for Political Party Committees":

*"The date of a receipt for an in-kind contribution is the date the good or services are provided to the committee, even if the contributor pays the bill for the goods or services after they are provided"*

If the donation must be documented as a receipt on that day it must also be documented as a disbursement and / or debt by the contributor and listed as a donation on the same day as well.

Simply put, the in-kind contribution was properly identified on the form.

The following items support these facts:

- a) 2009 Committee Treasurers Guide
- b) Copy of the last committee finance report given by former committee treasurer Jim Hewitt

**QUESTION:** Is the Statement I gave on 1/30/2011 in a "MISCELLANEOUS REPORT TO FEC" valid?

Yes, the statement is valid. There is nothing invalid about it.

However I would like to clarify the following part of the statement.

"Upon my immediate election to the office of committee treasurer we sent the committee books out to be reviewed and audited and I awaited their return with the report from the review and audit person."

That statement could be better written should say

"At the next meeting on December 13<sup>th</sup>, 2010, upon my immediate election to the office of committee treasurer we sent the committee books out to be reviewed and audited and I awaited their return with the report from the review and audit person."

If required to do so for clarification purposes, I will amend the statement upon the completion this investigation to better convey the information.

Either way the statement still serves the same purpose to show that after being elected I was not in possession of the committee's books.

These facts are supported by the following items:

- a) Email from Chairman Wade sent out to former treasurer Jim Hewitt on the turnover process
- b) Copy of the minutes from the 12/13/2010 meeting.

**QUESTION: How were the January 31 filings accomplished with the books in audit / review by Mr. Brian Plum?**

I worked with Mr. Plum to have scanned copies of the needed bank records and also used the previous treasurers finance report to the committee to create all needed past reports and the end of the year report which was due at that time.

These facts are supported by the following items:

- a) Email from Brian Plum
- b) Copy of the last committee finance report given by former committee treasurer Jim Hewitt

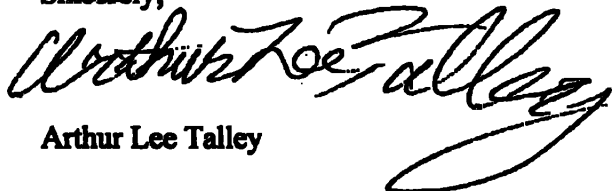
#### **Response to Complaint's Recommendations**

I did not commit any criminal act in any action that I have taken on behalf of the 3<sup>rd</sup> district committee. I did not submit any false documents to the FEC, nor did I or have I ever engage in any cover-up as is falsely alleged in the FEC Complaint. Moreover, neither I nor any other member of the 3<sup>rd</sup> District Committee engaged in any conspiracy to submit false documents to the FEC. Any allegation to the contrary is just absurd and not supported by the facts.

Also, a proper examination of the financial records was conducted by the Treasurer of the Republican Party of Virginia, as was requested. Mr. Plum did not "cover-up" anything, nor did he do anything wrong as has been alleged in the Complaint. Chairman Wade has not done anything wrong as alleged in the FEC Complaint. All allegations are baseless and without any merit whatsoever. A full examination of the Complaint clearly demonstrates that it is disjointed and lacking in any factual substance whatsoever. Rather, the Complaint is filled with false speculation and conjecture unsupported by facts. And, it is clear that the two complainants are submitting this for some unknown yet illegitimate purpose other than to seek the truth.

Thank you for your consideration in this regard. I await your immediate response.

Sincerely,



Arthur Lee Talley

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From: "Gina Padrone" <gpadrone@rpv.org>

Date: October 20, 2010 4:10:48 PM EDT

To:

Subject: Statement of Organization

See attached.

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FEC FORM 1		STATEMENT OF ORGANIZATION	
1. NAME OF COMMITTEE (or name)		<input type="checkbox"/> Check if name is changed	Excluded from law: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Virginia 3rd District Republican Comm			
ADDRESS (number, street name)		5807 Pleasant Woods Court	
<input type="checkbox"/> Check if address is changed		PORTSMOUTH	VA
		CITY	STATE
COMMITTEE'S E-MAIL ADDRESS (do not include any other address)		info@virginia3dgoP.com	
<input type="checkbox"/> Check if address is changed			
COMMITTEE'S WEB PAGE ADDRESS (URL)		virginia3dgoP.com	
<input type="checkbox"/> Check if address is changed			
2. DATE		10/20/2010	
3. SIGNATURE OF ORGANIZATION			

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2. IS THIS STATEMENT <input checked="" type="checkbox"/> NEW OR <input type="checkbox"/> AMENDED?						
I hereby declare under oath that the foregoing is true and correct to the best of my knowledge and belief.						
Name of Person or Firm: <u>Arthur Lee Talley</u>						
Signature of Person:	Date: <u>11/6</u>					
NOTE: Submission of this statement to the Bureau does not constitute an admission of guilt. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.						
<table border="1"><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table>	1	2	3	4	5	FOR: UNITED STATES DEPARTMENT OF JUSTICE FEDERAL BUREAU OF INVESTIGATION WASHINGTON, D.C. 20535
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